

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.857 OF 2015

IN

FIRST APPEAL NO.255 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.Devendranath S. Joshi for the applicants

CORAM : K.K.TATED, J.

DATED : 25/02/2015

PC:

1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 16.8.2014 passed by MACT, Oros in MACT No.29 of 2007 holding that the respondents claimants are entitled compensation of Rs.1,14,255/- with 9% interest.

3 The learned counsel for the applicants submits that the respondents claimants filed Execution Application No.2 of 2015 for recovery of entire decretal amount. He submits that if the entire decretal amount is recovered by the claimants in

Execution Application, nothing will survive in the First Appeal. He submits that in the present proceeding, the Tribunal erred in coming to the conclusion that applicants are liable to pay compensation to the respondents though the respondent failed and neglected to place on record copy of Insurance Policy duly issued by the Insurance Company. He submits that these facts are not properly considered by the Tribunal. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the award dated 16.8.2014 passed by the Tribunal. He submits that if stay is not granted, irreparable loss and injury will be caused to the applicant.

4 The learned counsel for the applicant submits that the Insurance Company is ready and willing to deposit entire decretal amount in the Tribunal within four weeks from today.

5 Statement is accepted.

6 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

(a) Operation and implementation of the

judgment and award dated 16.8.2014 passed by MACT, Oros in MACT No.29 of 2007 is stayed on the condition that applicant to deposit entire decretal amount with interest and cost in the Tribunal within four weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

(b) Tribunal is directed to invest amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

(c) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of amount and that application be decided on its own merits.

(d) The Registry of this Court is directed to transfer the sum of Rs.25,000/- if any deposited by the Insurance Company at the time of filing of First Appeal along with accrued interest to the MACT, Oros in the account of M.A.C.P. No. 29 of 2007.

(e) Applicant to inform the claimants in writing about this order within four weeks from today.

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)